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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/684,032	10/06/2000	Christopher S. Nolan	420-002	1056

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EXAMINER
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FOX, CHARLES A

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 11/21/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/684,032

Applicant(s)

NOLAN, CHRISTOPHER S.

Examiner

Charles A. Fox

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 October 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a) because they fail to show the folding of the gusseted sides to form the end panels and the portion of the ends that are heat welded closed as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing or cancelled from the claims. MPEP § 608.02(d). Correction is required.

This application has been filed with informal drawings which are acceptable (except as mentioned above) for examination purposes only. Formal drawings will be required when the application is allowed.

Applicant is required to submit a proposed drawing correction in reply to this Office action. However, formal correction of the noted defect can be deferred until the application is allowed by the examiner.

### ***Specification***

The disclosure is objected to because of the following informalities: The US patents cited on page 8 line 1 should include the entire US patent numbers.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 8 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one

skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. While the specification mentions the subject matter associated with this claim it does not do so in such a way as to allow one to form the end sections in any particular manner. It is also unclear if only the gusset portion is closed with a heat seal or if the entire end is sealed shut.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,2,4-6,9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Fell et al. In regards to claim 1 Fell et al. (US 3,951,284) disclose a moisture proof liner (20) for a shipping container comprising:

four panels of impervious film to match the top, bottom, and sides of the container;

two end panels to complete the liner;

an access panel in the side of the liner corresponding to the opening of the container that is adapted for loading and unloading cargo;

a closure to seal the liner to protect the cargo from moisture.

In regards to claim 2 Fell et al. further disclose tubes (45,48) attached to the access openings of the liner (20).

Regarding claim 4 Fell et al. also disclose that the tubes (45,48) are closed with a tie (46) and tucked inside the container (30) during transport.

In regards to claims 5 and 6 Fell et al. disclose access openings for containers having openings on one or more sides depending on the configuration of the container.

Regarding claims 9 and 10 Fell et al. disclose a method of installing a moisture proof liner for a container comprising the steps of:

- providing a liner with four elongated panels and two end panels of impervious material to complete the liner;
- cutting an access opening in the liner;
- positioning and erecting the liner in the container;
- transferring cargo into the container and sealing the liner to protect the moisture against moisture;
- attaching an open ended tube to the access opening of the liner;
- passing cargo through the tube and opening during transfer of the cargo.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3,7, and 11 rejected under 35 U.S.C. 103(a) as being unpatentable over Fell et al as applied to claims 1 and 2 above, and further in view of Krein et al.

In regards to claim 3 Fell et al. teach the limitations of claim 2 as above, they do not teach the liner and tubes as being a plastic sheet material joined by heat welding of the mating surfaces. Krein et al. (US 5,028,197) teach a plastic liner with joints that are fused together using heat. See column 5 lines 43-57.

In regards to claim 7 the limitations of claim 1 are met by Fell et al. as above, they do not specifically teach the liner as having gussets. However it would have been obvious to one of ordinary skill in the art, at the time of invention that gussets would be formed on the liner during the course of folding the liner and that the gussets would disappear as the liner was inflated.

In regards to claim 11 the limitations of claim 10 are met by Fell et al. as above. Fell et al. do not teach holding the upper corners of the tube to offer protection during transfer of cargo. Fell et al. do teach supporting the tube during loading and unloading with a stand (47) and a chute (44). It would have been obvious to one of ordinary skill in the art, at the time of invention that the supports for the tube taught by Fell et al. could be modified in many ways depending on the size of the tube and the nature of the cargo being transferred onto or off of the container.

The prior art made of record and not relied upon, but considered pertinent to applicant's disclosure is: Clarke (1985) and Krein (1985).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles A. Fox whose telephone number is 703-605-4294. The examiner can normally be reached between 7:00-4:30 Monday-Thursday and on alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached at 703-308-3248. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



EILEEN D. LILLIS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

caf  
November 13, 2001